

REMARKS/ARGUMENTS

Claims 1- 6 have previously been allowed, as amended, and are not changed. The subject new claim 7 is added, without adding new matter, so as to clarify and claim certain elements in claim one that clearly fall within the scope of the original specification, and particularly in light of recent court decisions.

Claim 7, compared to claim 1, eliminates the necessity of the precise location of the controls, and further eliminates any semantical arguments about Swim Jets versus Jets, by eliminating the word "Swim", but still having the requirement, in keeping with the overall invention, that the jets be sufficiently powerful to allow the user to swim in place. Finally, the treadmill cavity in paragraph h, with relation to the safety step off area, is defined so as not to specifically require three sides.

Applicant asserts that this new Claim 7 is within the scope of the specification and the arguments previously made, and not envisioned nor anticipated by any references cited by the Examiner, and requests that this claim be allowed in addition to the previously allowed claims 1-6 as amended.

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Version with Markings to Show Changes Made

New Claim 7 is not an amended claim, but for the examiner's benefit, the closest claim, claim 1, is shown with the comparison (the terms in parenthesis are those elements in claim 1, for comparison):

A combination single unit hydrotherapy and exercise device for allowing aquatic exercise, massage, therapy and recreation, including any one of swimming, walking or running in place, comprised of:

Claim 7 (new)

- a. A single seamless enclosure having two ends and a bottom therebetween;
- b. An open top opposite the bottom, said top defining an outer perimeter sufficiently long and wide to allow a swimmer to swim in place, and having steps at one end as part of the single seamless enclosure to allow access from the top to the bottom where the bottom is sufficiently deep to allow an adult to stand in water at chest high;
- c. A shaft receiving hole near the bottom of the enclosure;
- d. Control buttons and safety stop buttons and means (at the top of the enclosure);
- e. A treadmill having a frame and a treadmill belt moved by a rotationally moving roller and shaft said shaft extending from the treadmill to exit the wall of the enclosure through the shaft hole for connecting to exterior rotational motor means, said treadmill having a variable speed responsive to the control buttons;
- f. Sealing means to seal the shaft exit hole about the shaft;
- g. (Swim) Jets at the front end of the enclosure and having means for providing sufficiently powerful water flow from the front to the back of the enclosure so as to provide sufficient resistance to allow swimming in place;
- h. A treadmill receiving cavity at the bottom having a depth approximately the height of the treadmill and having a safety step off area adjacent the treadmill. (A treadmill receiving cavity at the bottom having a depth approximately the height of the treadmill defining an area on at least three sides of the cavity to constitute a safety step off area.)